THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.13985 OF 2006

DATE: 21-7-2006

Between:

1. T.Bhavani Prasad, son of late Tapal Thimmappa, aged 64 years, Occ: business, R/o plot No.16, Renuka CharyaNagar, Sangankal Road, Bellary, Karnataka State and anothers.

... Petitioners.

And

1. Govt. of A.P., rep. by its Director, Mines & Geology, Hyderabad and anothers.

... Respondents.

* * *

ORDER:

The writ petition is filed for a writ of Mandamus, declaring inaction of the second respondent in not submitting his detailed comments on the representation of the petitioners dated 06.4.2006 as directed by the first respondent in Memo No.12100/R4-1/2006 dated 05.6.2006, as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India and consequently to

direct the second respondent to take steps forthwith in accordance with the said Memo issued by the first respondent.

2. It is stated that the father of the petitioners late Tapal Thimmappa was granted mining lease on 16.5.1957 in an area of 231 acres in survey Nos.1 and 2 of Malapanagudi village, Hirehal Mandal, Rayadurg Taluk, Ananthapur District, Andhra Pradesh, for extraction of iron ore and red oxide. The lease period was for 20 years. It is also stated that even before the expiry of the lease, the father of the petitioners did make application for renewal. Subsequently, their father expired without pursuing the said application for renewal. It is also stated that the said lease has not been granted to anybody till now. Subsequent thereto another notification had been issued notifying the availability of lease. The petitioners and others who constituted partnership firm in the name and style “Tapal Thimmappa and Sons” made an application in terms of the said notification on 15.01.2005. It is also stated that the father of the petitioners worked out the lease by winning the minerals after paying necessary charges payable under the Mines and Minerals (Development and Regulation) Act, 1957 (for short ‘the Act’), to the authorities and there remained about one lakh

metric tons of low grade iron ore, which was though extracted could not be marketed through Minerals and Metals Trading Corporation of India, which was the sole buying agent of the Government, as at that point of time the low grade iron ore was not saleable, but today it is saleable. It is also stated that since low grade iron ore dumps were existing on the ground, the petitioners being legal representatives of the original lessee, are entitled to remove the same after paying necessary royalty and other allied charges to the government under the said Act by getting transport permits. It is also stated that the petitioners are always ready and willing to pay the charges that are payable under the Act for removing the low-grade iron ore dumps. It is further stated that the petitioners made several communications to the respondents in connection with the same. A copy of the letter dated 06.4.2006 made by the petitioners is placed before this Court. It is also further stated that on receipt of the same, the first respondent issued Memo dated 05.6.2006 calling upon the second respondent to inspect and submit detailed comments immediately on the representation made by the petitioners. It is also stated that one of the brothers by name T.Jagadish addressed a letter to the first respondent as to whether any arrears are outstanding in the name of the previous lessee i.e., their

father. To the same, the first respondent issued a Memo dated 27.1.2006 asking the second respondent as to whether there are any arrears of lease amount payable by their father. The second respondent in his letter dated 27.02.2006 categorically stated that there are no dues by their late father. It is further stated that previously there was no market for low grade iron ore and now there is market for the same and if the respondents further delayed by not permitting them to lift the material, the whole exercise may result in futile as the market may go down or disappear for the low grade iron ore. By efflux of time due to nature there is every possibility of further deteriorating the quality and quantity of the product. It is further stated that in such circumstances the petitioners being legal representatives are entitled to lift the low grade iron ore dumps existing on the ground subject to payment of fees payable under the said Act and Rules. Since they have legal right to remove the same and there is corresponding duty on the part of the respondents to permit them to lift the same, subject to compliance of the provisions of the said Act and since the respondents already taken steps by calling a report from the second respondent, the second respondent cannot sleep over the matter and he has to act swiftly and send a report so that

appropriate decision could be taken by the Department of Mines and Geology. Thus, the said inaction is impugned in the writ petition.

3. Heard both the counsel and perused the material available on record.

4. In the light of the facts and circumstances, since it is stated that a representation in detail dated 06.4.2006 is pending, in the interest of justice a direction may be given to the second respondent to dispose of the representation of the petitioner dated 06.4.2006 in accordance with law.

5. Accordingly, the writ petition is hereby disposed of directing the second respondent to dispose of the representation of the petitioner dated 06.4.2006 in accordance with law in the light of several averments made in the affidavit filed in support of the writ petition referred to supra, within a period of six weeks from the date of receipt of a copy of this order. No order as to costs.

P.S.NARAYANA, J.

Date: 21st July 2006.
BSB